

28 January 1976

MEMORANDUM

SUBJECT: Pike Committee Recommendations

Our views on the draft recommendations of the Pike Committee transmitted by Mr. Gregg's note of 26 January are as follows:

a. The proposal in subparagraph a. on page 1 that no Member may serve on the Committee more than three consecutive terms would unnecessarily deny expertise to the Committee. Intelligence and intelligence operations are learned only over a period of time.

b. The same objection applies to the restrictions on employment of Staff Director and Chief Counsel at subparagraph b. on page 1. In addition, those restrictions would greatly inhibit the Committee's success in attracting competent personnel.

c. The provision in subparagraph c., which would in effect negate Rule XI(e), does not go far enough. The paragraph should provide that no other committees or members will have access.

d. The authority to release information asserted in subparagraph d. at page 1 of the Committee would be a constitutional infringement on the President's powers.

e. While the proposal at subparagraph e. on page 1 for disciplining Members on its face is attractive, its real value is directly related to the willingness of the Committee and the Congress to take the necessary actions to discipline Members.

f. With respect to subparagraph f., no Committee member should be empowered to release information merely on the petitions of one-fifth of the membership of the House. Further, the paragraph is silent as to what follows after the House is informed in secret session.

g. Subparagraph g. at page 2 should be strengthened by a provision requiring secrecy agreements. The secrecy agreement is the strongest legal tool yet devised for protecting secrets. Also, the requirement that the offending staff member be terminated makes no provision as to who has the authority to terminate.

h. The meaning of subparagraph h. is unclear. If it means that the Committee counsel should be given statutory authority to represent the Committee in a judicial proceeding, there should be no objection.

i. At subparagraph i. and elsewhere in the recommendations, the Committee's jurisdiction is to include both domestic and foreign intelligence. The two are so different in concept and purposes and subject to such different requirements and restrictions that they should not be within the jurisdiction of the same committee.

j. The last line on page 3 providing for concurrent jurisdiction of remaining oversight functions is objectionable. There should be no concurrent jurisdiction.

k. The comment at subparagraph f. above concerning release of information on the petition of one-fifth of the membership of the House would apply also to recommendation B.1. on page 4.

l. The proposal at paragraph 3 on page 4 should be broadened to apply also to the unauthorized disclosure of intelligence sources and methods.

m. The recommendation at paragraph 2 at page 5 is too rigid and too specific. In particular, there is no provision for events which occur when Congress is not in session. Additionally, the notification should not be in writing and should not be detailed. When section 662 of the amended Foreign Assistance Act of 1961 was drafted, particular care was used to avoid tying the President's hand by requiring excessive detail. Also with respect to paragraph 2.b., the certification of the President should be addressed to the House rather than the Committee. The requirement in paragraph 2.c. that the Committee be provided with copies of the written recommendation of each member of the 40 Committee also is unworkable and highly objectionable.

n. With respect to recommendation E.1. on page 6, both Mr. Colby and Mr. Bush have indicated their opposition that even budget totals be disclosed.

o. The proposal in recommendation F.1. on page 6 of transfers or expenditures of funds require the specific approval of the Intelligence Committee again would be a constitutional invasion of the executive's authority and would violate the separation of powers concept.

p. The proposal in subparagraph a. on page 7 that the DCI be authorized to supervise and control all agencies of the Government engaged in foreign intelligence is too broad. In fact, the DCI simply cannot supervise other agencies which have their own statutory authorities, particularly those which are very large and with very large budgets.

q. The recommendation that the DCI be a member of the National Security Council, subparagraph b. on page 7, is undesirable. Instead the present practice whereby the Director is the intelligence advisor to the National Security Council could be provided for by statute.

r. To the extent that subparagraph c. and e. on page 7 would divorce the DCI from CIA, the proposal is undesirable and unworkable. A Director without an adequate agency to assist him in his chief functions as the President's foreign intelligence officer could not discharge those duties.

s. Subparagraph d. on page 7 is a confused effort to place in the DCI both command and IG functions throughout the foreign intelligence agencies. It is not a workable concept.

t. With respect to subparagraph f. on page 8, NIEs and perhaps other intelligence documents should not in every case be immediately supplied to the appropriate committees of Congress.

u. If subparagraph g. on page 8 means that budget requests of the various agencies are to be prepared by the DCI, or are to become parts of a DCI budget request, the requirement runs counter to workable command lines.

v. Subparagraph h. on page 8 should be modified to charge the Director only with reporting to and recommending to the National Security Council (and to Congress) with respect to the indicated activities of the various agencies, rather than requiring him to eliminate duplication, etc.

w. Recommendation H.1. on page 8 runs counter to the experience of the Government beginning with George Washington. There must be available covert funds for which the Director's certification alone shall suffice.

x. With reference to recommendation I.1. on page 9, the Audit Staff work has been increased. Further, it would be wrong to require that all overseas staffs be audited each year.

y. The proposal in J.1. on page 9 to amend the National Security Act to require the Director and heads of foreign intelligence agencies to provide Congress with all information is simply unworkable. Necessarily some information has to be withheld.

z. It appears wrong in principle to provide by statute for an advisory subcommittee to the National Security Council and to detail its makeup, function, etc. The "sole jurisdiction" language, at recommendation a. on page 9, is unclear. It seems unwise to specify, by statute, the "Assistant to the President for National Security Affairs." Future Presidents may or may not continue the office in being.


aa. It is our understanding that DIA should not be abolished as recommendation L.1. proposes. DIA now performs valuable services and should continue to do so.

bb. There should not be a prohibition on intelligence agencies use of personnel or organizations of the media (M.1., page 10).

cc. The proposal concerning detailees at the top of page 11 is unnecessary and almost foolish. In fact, employees cannot be detailed from one agency to another without the knowledge of the receiving agency.

dd. The recommendation at P.1. on page 11 against U.S. intelligence agencies cooperating with foreign police agency organizations goes too far. Both police agencies and military services have experience in dealing with terrorists and other elements, and it would be foolish to prevent appropriate cooperation.

ee. The last recommendation appears to preclude CI functions on the part of the intelligence elements of the Armed Services and therefore is objectionable.


JOHN S. WARNER
General Counsel

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